

GSA Board of Contract Appeals

6101.11

limit access to them on the ground that such documents are privileged or confidential, or sensitive in some other way. The moving party must state the grounds for such limited access. The Board may also determine on its own initiative to hold materials under such conditions. The manner in which such materials will be held, the persons who shall have access to them, and the conditions (if any) under which such access will be allowed will be specified in an order of the Board. If the materials are held under such an order, they will be part of the record of the case. If the Board denies the motion, the materials may be returned to the party that submitted them. If the moving party asks, however, that the materials be placed in the administrative record, *in camera*, for the purpose of possible later review of the Board's denial, the Board will comply with the request.

(2) A party may also ask, or the Board may direct, that testimony be received under protective order or *in camera*. The procedures under paragraph (c)(1) of this section shall be followed with respect to such request or direction.

(d) *Review and copying.* Except for any part thereof that is subject to a protective order or deemed an *in camera* submission, the record in a Board proceeding shall be made available for review at the Office of the Clerk of the Board during the Board's normal working hours, as soon as practicable given the demands on the Board of processing the subject case and other cases. If a request is made for copies of documents, and if making such copies involves more than minimal costs to the Board, reimbursement will be required. If a request is made for a copy of a transcript which was prepared pursuant to a contract with the Board, the fee charged by the Board for a copy of the transcript will be at the rate established by the contract. When required, the Office of the Clerk will certify copies of papers and documents as a true record of the Board. Except as provided in 6101.17 and 6101.32 (Rules 17 and 32), the Office of the Clerk will not release any part of the record in its possession to anyone.

6101.10 Admissibility of evidence [Rule 10].

In general, any relevant and material evidence will be admitted into the record. The Board may exclude evidence to avoid unfair prejudice, confusion of the issues, undue delay, waste of time, or needless presentation of cumulative evidence. Hearsay evidence is admissible unless the Board finds it unreliable or untrustworthy. As a general matter, and subject to the other provisions of 6101.10 [Rule 10], the Board will look to the Federal Rules of Evidence for guidance when it makes evidentiary rulings.

[73 FR 26950, May 12, 2008]

6101.11 Conferences; conference memorandum [Rule 11].

(a) *Conferences.* The Board may convene the parties in conference, either by telephone or in person, for any purpose. The conference may be stenographically or electronically recorded, at the discretion of the Board. Matters to be considered and actions to be taken at a conference may include:

(1) Simplifying, clarifying, or severing the issues;

(2) Stipulations, admissions, agreements, and rulings to govern the admissibility of evidence, understandings on matters already of record, or other similar means of avoiding unnecessary proof;

(3) Plans, schedules, and rulings to facilitate discovery;

(4) Limiting the number of witnesses and other means of avoiding cumulative evidence;

(5) Stipulations or agreements disposing of matters in dispute; or

(6) Ways to expedite disposition of the case or to facilitate settlement of the dispute, including, if the parties and the Board agree, the use of alternative dispute resolution techniques, as provided in 6101.51 and 6101.54 (Rules 51 and 54).

(b) *Conference memorandum.* The Board may issue a memorandum of the results of a conference, an order reflecting any actions taken, or both. A memorandum or order so issued shall be placed in the record of the case and sent to each party. Each party shall have 5 working days after receipt of a